

ECS File: IGA-87-65

Agreement #WPM440 87 6

REIMBURSABLE AGREEMENT
BETWEEN
FEDERAL AVIATION ADMINISTRATION
WESTERN-PACIFIC REGION
AND
THE STATE OF ARIZONA
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION

WHEREAS, the United States Department of Transportation, by and through the Federal Aviation Administration, hereinafter referred to as the "FAA", is in a position to furnish services which the Arizona Department of Transportation, hereinafter referred to as "State", requires, has funds available for, and has determined to obtain these services from the FAA on a reimbursable basis; and

WHEREAS, Section 302(k) of the Federal Aviation Act of 1958 (49 U.S.C. 1342, 1343), as amended, authorizes the furnishing of services, equipment and material by the FAA to a non-Federal organization on a reimbursable basis; and

WHEREAS, the construction of a freeway interchange in the vicinity of the FAA owned Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation (VORTAC) facility located near the Sky Harbor Airport may necessitate relocating the facility; and

WHEREAS, the design of the above-mentioned freeway interchange must begin in 18 months; and

WHEREAS, the selection of a satisfactory site for the relocation of the VORTAC will entail an engineering study and development of cost estimates to accomplish the relocation; and

WHEREAS, it is essential that this engineering study be completed before design of the interchange may begin; and

WHEREAS, the State will reimburse the FAA for all costs incurred by FAA in providing services under this agreement as specified in Article II Performance.

NOW, THEREFORE, in consideration of the premises and covenants and agreements contained herein, the FAA and State mutually agree as follows:

NO. <u>12526</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>11-2-87</u>
<u>Case, J. M. Ford</u> Secretary of State

ARTICLE I - TERM OF AGREEMENT

1. The term of this agreement shall commence on the date this agreement is filed with the Arizona Secretary of State, and shall continue no later than 18 months thereafter.

2. This agreement may be terminated by the FAA or the State at any time upon written notice of termination given at least thirty (30) days prior to the date of termination proposed in the notice.

ARTICLE II - PERFORMANCE

The FAA will conduct an engineering study for the relocation of the VORTAC and provide the State a complete Siting/Engineering Report within 18 months to include the following:

1. Survey of existing procedures/airways on the existing VORTAC.

2. Flight inspection of all existing VORTAC procedures to establish a baseline data base of the existing VORTAC structures.

3. Identification of acceptable search area(s).

4. Field investigations of several potential sites.

5. Site test first choice site if possible.

6. Full engineering analysis and report.

7. Cost estimate for VORTAC relocation to the first choice site.

8. Proposed relocation project schedule and potential delays.

ARTICLE III - ESTIMATED COSTS AND ADJUSTMENTS

A. It is understood and agreed that the costs listed in Paragraph B below were estimated under the following assumptions:

1. No additional RF coverage or Air Traffic procedures required.

2. Any site test will be conducted using a conventional VOR.

3. Only minor grading will be required for site test.

If conditions exist other than the above assumptions, this agreement shall be amended to cover the additional expenses.

B. The estimated costs of services are as follows:

1. Civil Engineering	\$31,000.
2. Electronic Engineering	25,500.
3. Electronic Installation	20,900.
4. Flight Inspection	<u>32,400.</u>
	109,800.
5. Administrative	
Overhead @ 12%	<u>13,176.</u>
TOTAL:	\$122,976.

ARTICLE IV - REIMBURSEMENT

A. It is understood and agreed that the total costs set forth in Article III hereof are only estimated costs for the items of expense shown, and that the State shall reimburse the FAA for the actual costs incurred by the FAA in furnishing services under this agreement, including administrative costs at twelve percent of actual costs.

B. Should this agreement be terminated by the State, it is understood and agreed that the State will reimburse the FAA for all reasonable expenses incurred as a result of this agreement, including the twelve percent administrative overhead costs incurred prior to the termination date.

C. FAA shall submit a written invoice to the State at the end of each quarter of the fiscal year, setting forth in detail, the actual direct costs incurred by FAA during the preceding quarter in furnishing services pursuant to this agreement. Said invoice shall include a statement of administration overhead rate for the preceeding quarter.

D. FAA shall submit a brief progress report in narative formalong with each quarterly invoice summerizing the work that has been completed during the quarter as well as the brief progress summary of the ongoing week.

ARTICLE V - PAYMENT

The State shall make every reaonsable effort, upon receipt and approval of FAA's invoice covering the work specified herein as provided in Article II Performance above, to remit to FAA within a thirty (30) day period after the date of the invoice, the amount billed.

ARTICLE VI - AMENDMENT

A. Either party may request an amendment of this agreement.

B. Any amendment, modification or change to this agreement shall be valid and effective only if in writing and executed by the duly-authorized representative(s) of the FAA and the State subscribing hereto or by duly-authorized representatives occupying the same or equivalent positions.

ARTICLE VII - BILLING AND CORRESPONDENCE

A. Billing and correspondence to the State by the FAA shall be submitted to:

Arizona Department of Transportation
Highways Division, Room 118E
205 South 17th Avenue
Phoenix, Arizona 85007

B. Payment to the FAA by the State shall be submitted to:

Federal Aviation Administration
Accounting Operation Section, AWP-44A
P.O. Box 92007, World Way Postal Center
Los Angeles, California 90009

C. All other correspondence to the FAA concerning this agreement shall be submitted to:

Federal Aviation Administration
Material Management Branch, AWP-52
P.O. Box 92007, World Way Center
Los Angeles, California 90009

ARTICLE VIII - EFFECTIVE DATE

A. This agreement supersedes any previous agreements

between the parties on the subject matter set forth and is effective upon the date this agreement is filed with the Secretary of State.

Attached hereto and incorporated herein by reference are authenticated copies of the resolution of the Director of the Arizona Department of Transportation authorizing the Arizona Department of Transportation to enter into this agreement and the resolution of the Regional Commissioner, Western-Pacific Region, of the Federal Aviation Administration authorizing the Federal Aviation Administration to enter into this agreement. Attached also is a letter-opinion of the Western-Pacific Regional Counsel of the FAA stating that this agreement is validly entered into by the FAA, and a letter-opinion by the Attorney General of Arizona stating that this agreement is validly entered into by the State.

THIS AGREEMENT is subject to cancellation by the Governor of Arizona pursuant to Arizona Revised Statutes Section 38-511.

IN WITNESS WHEREOF, this agreement executed this 15 day of September, 1987.

FEDERAL AVIATION ADMINISTRATION
By: Lawrence Walker

STATE OF ARIZONA
ARIZONA DEPARTMENT OF
TRANSPORTATION

By: W. O. Ford
for State Engineer

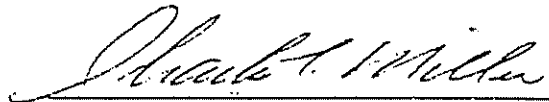
0045e/ks

Section: Sky Harbor Airport

RESOLUTION

BE IT RESOLVED on this 16th day of March, 1987, that I, CHARLES L. MILLER, as Director, ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the State of Arizona, that the DEPARTMENT OF TRANSPORTATION, acting by and through the Highways Division, enter into an Agreement with the Federal Aviation Administration to conduct a feasibility study for the relocation of the Very High Frequency Omnidirectional Radio Range/Tactical Air Navigation Facility near Sky Harbor Airport to make room for the construction of a freeway interchange.

THEREFORE, authorization is hereby given to draft said Agreement which, upon completion, shall be submitted for approval and execution by the State Engineer.


Charles L. Miller, Director
Arizona Department of
Transportation

WH:ks

0063e/



U.S. Department
of Transportation

Federal Aviation
Administration

Western-Pacific Region

P.O. Box 92007
Worldway Postal Center
Los Angeles, CA 90009

April 24, 1987

Al Morgan, Esq.
Assistant Attorney General
State of Arizona
1275 West Washington
Phoenix, Arizona 85007

Dear Mr. Morgan:

Re: Reimbursable Agreement WPM 440 876

This is a follow up to our discussion of April 23, 1987, concerning reimbursable agreements between the Federal Aviation Administration and various governmental entities. My call was prompted in response to a request by Mr. Chauncey Walker, Contracting Officer, Logistics Division, Federal Aviation Administration, Western-Pacific Region, after Mr. Walker's receipt of a letter from Mr. Thomas Elkins dated April 15, 1987.

Enclosed is a copy of Federal Aviation Administration Order WE 2500.19C dated July 2, 1980. Mr. Chauncey Walker is a Contracting Officer in the Logistics Division and is an appropriate delegated representative of the agency for the purpose of negotiating and signing reimbursable agreements.

As part of the standard language of any reimbursable agreement between the Federal Aviation Administration and another governmental entity, a citation is made to Section 302(k) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1342(k) which authorizes the use of such agreements. We have used these agreements for several decades under the Federal Aviation Act.

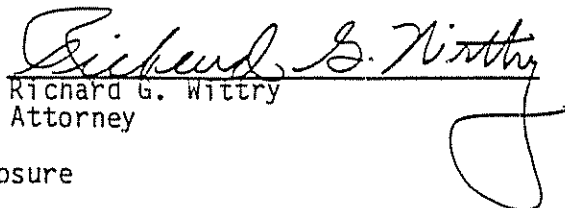
In addition to this letter to confirm that Mr. Walker is an authorized representative of this agency, this office can also furnish a opinion after the agreement has been executed and can furnish an opinion that the Agency has validly entered into the agreement.

We trust that these letters will constitute a sufficient basis to satisfy the request of Mr. Elkins in his letter of April 15, 1987, to Contracting Officer Chauncey Walker.

Sincerely,

DeWITTE T. LAWSON, JR.
Regional Counsel

By:


Richard G. Wittry
Attorney

Enclosure

RECEIVED
APR 27 1987

ATTORNEY GENERAL
TRANSPORTATION DIVISION

ORDER

DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

WE 2500.19C

7/2/80

SUBJ: WESTERN REGION REIMBURSABLE AGREEMENTS

- * 1. PURPOSE. This order restates existing policy and procedures for the region to negotiate, prepare and execute reimbursable agreements covering services and materiel provided to other Federal and non-Federal parties within the Western Region. It does not apply to agreements that cross regional boundaries. *
2. DISTRIBUTION. This order is distributed to the division level (less AC, LG and AF) in the Regional Office, to the branch level in Accounting, Airway Facilities and Logistics Divisions, and to all Airway Facilities Sector Headquarters.
- * 3. CANCELLATION. WE 2500.19B, Western Region Reimbursable Agreements dated April 4, 1978. *
4. RESPONSIBILITIES.
- * a. Program and Planning Offices will inform the Contracting Officer of the need for an agreement in writing. The request will provide a breakdown of the service and/or equipment along with the estimated cost of each major item in the project.
- b. Contracting Officer is an employee assigned to the Logistics Division who has been delegated contracting authority by the Regional Director and is responsible for the negotiation, preparation and execution of reimbursable agreements.
- c. Field and Sector Offices will provide or certify bills for the Accounting Division so they can take action to receive or make payment for services and/or materiel funded from operational funds. *
- d. Establishment Engineering Branch, AWE-450, has the responsibility for management of projects that are funded by Facility and Equipment (F&E) appropriations. The Establishment Engineering Branch accomplishes the project within the authority given by the Programs and Planning Branch, AWE-420, on project assignment sheets. All expenditure documents are certified by the Establishment Engineering Branch and forwarded to the Accounting Division, AWE-20, which prepares reimbursement billing. Final billing will not be made until authorized by the Program and Planning Branch.

e. The Accounting Division is responsible for billing or paying for services and materiel, either furnished or received, in accordance with

Distribution:

A-X-2 (Minus X(AC/LG/AF); A-X (AC/LG/AF)-3;
A-FAF-2 (1 ea)

Initiated By:

AWE-52



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. KR 87-2803, is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 20 day of October, 1987.

ROBERT K. CORBIN
Attorney General

Albert Morgan
Assistant Attorney General
Transportation Division